

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

---

WESLEY M. SMITH,

Plaintiff,

v.

LANCE GIVENS, Recreation Department  
Supervisor,

Defendant.

---

ORDER

09-cv-604-slc

Plaintiff Wesley Smith, a prisoner at Oxford Federal Correctional Institution in Oxford, Wisconsin, has submitted a proposed complaint. He requests leave to proceed *in forma pauperis*. A decision on the request will be delayed until plaintiff pays an initial partial payment of the filing fee as required by 28 U.S.C. § 1915(b) and the 1996 Prison Litigation Reform Act. Plaintiff's initial partial payment cannot be calculated at this time because the trust fund account statement he submitted with his complaint does not cover the full six-month period immediately preceding the filing of his complaint.

Plaintiff's complaint was submitted on September 28, 2009. His trust fund account statement should cover the period beginning approximately March 28, 2009 and ending approximately September 28, 2009. Instead, plaintiff's statement ends on June 17, 2009, three months short. Therefore, if plaintiff wishes to continue with this lawsuit, he will have to supplement his trust fund account statement with an additional statement covering the period beginning June 18, 2009 and ending September 28, 2009. Plaintiff should show a copy of this order to prison officials to insure that they are aware they should send the required trust fund

account statement to this court.

ORDER

IT IS ORDERED that plaintiff may have until October 21, 2009, in which to submit a supplemental trust fund account statement for the period beginning June 18, 2009 and ending September 28, 2009. If, by October 21, 2009, plaintiff fails to respond to this order, I will assume that he wishes to withdraw this action voluntarily and, in that case, the clerk of court is directed to close this file without prejudice to plaintiff's filing his case at a later date.

Entered this 2<sup>nd</sup> day of October, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge